



## Rule Review Checklist Addendum

**This form is to be used only if the rule was previously reviewed, and has not been amended subsequent to that review.**

Document(s) Reviewed: **WAC 458-20-243 Litter tax**

Date last reviewed: **March 30, 1983**

Reviewer: **Gayle Carlson**

Date current review completed: **January 20, 2004**

Briefly explain the subject matter of the document(s):

**Rule 243 explains the applicability of litter tax on manufacturers, wholesalers and retailers. It defines the 13 categories which contain products that are taxable under the litter tax classification.**

Type an "X" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

### 1. Public requests for review:

YES	NO	
	X	Is this document being reviewed at this time because of a public (e.g., taxpayer or business association) request?

If "yes," provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request.

### 2. Related statutes, interpretive and/or policy statements, court decisions, BTA decisions, and WTDs: (Excise Tax Advisories (ETAs), Property Tax Advisories (PTAs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.)

YES	NO	
X		Are there any statutory changes subsequent to the previous review of this rule that should be incorporated?
	X	Are there any interpretive or policy statements not identified in the previous review of this rule that should be incorporated? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any interpretive or policy statements that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeals (BTA) decisions, court decisions, or



		Attorney General Opinions (AGOs) subsequent to the previous review of this rule that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) subsequent to the previous review of this rule that provide information that should be incorporated into the rule?
	X	Are there any changes to the recommendations in the previous review of this rule with respect to any of the types of documents noted above? (An Ancillary Document Review Supplement should be completed if any changes are recommended with respect to an interpretive or policy statement.)

If the answer is “yes” to any of the questions above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

- **As provided for in previous review, Rule 243 needs to be amended to reflect changes passed into law in chapter 257, Laws of 1998. Changes require taxpayers to report their litter taxable sales and amount of litter tax owed on each excise tax return filed. Previously the law provided for an annual lump payment made on the last return for the year.**
- **Also, chapter 120, Laws of 2003, provides that litter tax does not apply to food and beverages sold by retailers for indoor consumption on the seller's premises.**

**3. Additional information:** Identify any additional issues (other than those noted above or in the previous review) that should be addressed or incorporated into the rule. Note here if you believe the rule can be rewritten and reorganized in a more clear and concise manner.

- **The rule is written in a clear and concise manner. It could be expanded to include reference to other products, some of which have been questioned as to the applicability of litter tax. Determinations on numerous products were identified in the previous review.**

**4. Listing of documents reviewed:** The reviewer need identify only those documents that were not listed in the previous review of the rule(s). Use “bullets” with any lists, and include documents discussed above. Citations to statutes, interpretive or policy statements, and similar documents should include titles. Citations to Attorney General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).

Statute(s) Implemented: **No additional.**

Interpretive and/or policy statements (e.g., ETAs, PTAs, and IAGs):

- **ETA 445.04.243 has been cancelled.**

Court Decisions: **None.**



Board of Tax Appeals Decisions (BTAs):

- **BTA Docket No. 01-015-32 Proficient Food Co. - Issue pertained to whether a wholesaler of food and beverages was liable for litter tax when the retail customer was not liable or only partially liable for the tax.**
- **BTA Docket No. 54406 Fletcher Challenge Paper Co. - Large rolls of blank newsprint, sold to a publisher for production of newspapers in Washington, are not subject to litter tax.**

Appeals Division Decisions (WTDs):

- **Det. 98-222, 18 WTD 313 - Paper products manufactured for use in a business environment, and which are not household paper products intended for use in the home, are not subject to litter tax.**

Attorney General Opinions (AGOs): **None.**

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

**5. Review Recommendation:**

- |               |   |
|---------------|---|
| <u>  X  </u>  | <b>Amend</b>  |
| <u>      </u> | <b>Repeal/Cancel</b> (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.) |
| <u>      </u> | <b>Leave as is</b> (Appropriate even if the recommendation is to incorporate the current information into another rule.)                              |
| <u>      </u> | <b>Begin the rule-making process for possible revision.</b> (Applies only when the Department has received a petition to revise a rule.)              |

**Explanation of recommendation:** Provide a brief summary of your recommendation, whether the same as or different from the original review of the document(s). If this recommendation differs from that of the previous review, explain the basis for this difference.

- **Rule 243 should be revised to incorporate legislative changes:**
  - **Chapter 257, Laws of 1998, changes the annual litter tax reporting frequency to correspond with the reporting frequency of the excise tax returns as assigned to taxpayers.**
  - **Chapter 120, Laws of 2003, provides a litter tax exemption for food and beverages sold by retailers for indoor consumption on the seller's premises.**
- **Examples of taxable and non-taxable products, based on WTDs identified in previous review, should be incorporated.**
- **As recommended in the previous review of this rule, the reference to chapter 70.93 RCW should be changed to chapter 82.19 RCW.**



**6. Manager action:** Date: February 19, 2004

AL Reviewed and accepted recommendation

Amendment priority (to be completed by manager):

     1  
  X   2  
     3  
     4